

**ASSEMBLY BILL**

**No. 419**

**Introduced by Committee on Public Employees, Retirement and Social Security (Negrete McLeod (Chair), Levine (Vice Chair), Correa, Laird, and Nakanishi)**

February 14, 2003

An act to amend Sections 22200, 22224, and 22225 of, and to add Section 22227 to, the Education Code, to amend Sections 82023, 82024, and 90001 of, and to add Section 84225.5 to, the Government Code, and to amend Section 4 of Chapter 1049 of the Statutes of 2002, relating to the Teachers' Retirement Board, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 419, as introduced, Committee on Public Employees, Retirement and Social Security. Teachers' Retirement Board: elections.

(1) The State Teachers' Retirement Law provides for the election, as of January 1, 2004, of 3 members to the Teachers' Retirement Board at elections conducted by the board. One of those members is to be elected by specified active members of the Defined Benefit Program of the State Teachers' Retirement System.

This bill would provide that that member of the board shall also be elected by specified active participants of the Cash Balance Benefit Program of the Teachers' Retirement System and would clarify that a member of the system employed to perform creditable service for more than one employer may only be elected to the position on the board that corresponds to the position in which he or she accrued the most service credit during the prior school year. The bill would also make technical changes.

The bill would also require elected members and candidates for those offices to file specified campaign statements on forms prescribed by the Fair Political Practices Commission. The statements would be filed with the Secretary of State and a copy would be retained at the system's headquarters office and would be available for inspection as public records. The statements would have to be signed and verified by the filer and any violation of these requirements would be subject to civil or administrative action by the Fair Political Practices Commission.

(2) Existing provisions of the Political Reform Act of 1974 define the terms "elective office" and "state elective office."

This bill would, for specified purposes of the act, include within those definitions an elected member of the Teachers' Retirement Board.

(3) Existing provisions of the Political Reform Act of 1974 regulate, among other things, the disclosure of contributions received and expenditures made by candidates and committees engaged in elections, and provides for audits of those disclosures by the Fair Political Practices Commission. Existing law requires the commission to promulgate regulations regarding audits of disclosures filed by candidates for the Board of Administration of the Public Employees' Retirement System and requires the system to reimburse the commission for reasonable expenses incurred.

This bill would additionally require the commission to promulgate regulations regarding audits of disclosures filed by candidates for the Teachers Retirement Board and require the Teachers' Retirement System to reimburse the commission for reasonable expenses incurred.

(4) Existing provisions of the Political Reform Act of 1974 make a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing those penalties on persons who are required to make certain disclosures under the act pursuant to this bill.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further its purposes



with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a  $\frac{2}{3}$  vote of each house for passage.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 22200 of the Education Code, as added  
2 by Chapter 1049 of the Statutes of 2002, is amended to read:  
3 22200. (a) The plan and the system are administered by the  
4 Teachers' Retirement Board. ~~The~~ *On and after January 1, 2004,*  
5 *the* members of the board are as follows:  
6 (1) The Superintendent of Public Instruction.  
7 (2) The Controller.  
8 (3) The Treasurer.  
9 (4) The Director of Finance.  
10 (5) Three persons who are either members of the Defined  
11 Benefit Program or participants in the Cash Balance Benefit  
12 Program, as follows:  
13 (A) One person who, at the time of election, is an active  
14 member of the Defined Benefit Program or an active participant  
15 of the Cash Balance Benefit Program employed by a school district  
16 that provides instruction for grades K to 12, inclusive, or a county  
17 office of education, in a position other than a school administrator  
18 that requires a services credential with a specialization in  
19 administrative services. This member shall be elected by the active  
20 members of the Defined Benefit Program and active participants  
21 of the Cash Balance Benefit Program who are employed by a  
22 school district that provides instruction for grades K to 12,  
23 inclusive, or county office of education, pursuant to regulations  
24 adopted by the board, for a four-year term commencing on January  
25 1, 2004.  
26 (B) One person who, at the time of election, is an active  
27 member of the Defined Benefit Program or an active participant  
28 of the Cash Balance Benefit Program employed by a school district  
29 that provides instruction for grades K to 12, inclusive, or a county

1 office or education. This member shall be elected by the active  
2 members of the Defined Benefit Program *and active participants*  
3 *of the Cash Balance Benefit Program* who are employed by a  
4 school district that provides instruction for grades K to 12,  
5 inclusive, or a county office of education, pursuant to regulations  
6 adopted by the board, for a four-year term commencing on January  
7 1, 2004.

8 (C) One person who, at the time of election, is a community  
9 college instructor and an active member of the Defined Benefit  
10 Program or an active participant of the Cash Balance Benefit  
11 Program employed by a community college district, who shall be  
12 elected by the active community college members of the Defined  
13 Benefit Program and the active community college participants of  
14 the Cash Balance Benefit Program, pursuant to regulations  
15 adopted by the board, for a four-year term commencing on January  
16 1, 2004.

17 (6) Five persons appointed by the Governor for a term of four  
18 years, subject to confirmation by the Senate, as follows:

19 (A) One person who, at the time of appointment, is a member  
20 of the governing board of a school district or a community college  
21 district.

22 (B) One person who is either a retired member under this part  
23 or a retired participant under Part 14 (commencing with Section  
24 26000).

25 (C) Three persons representing the public, whose terms shall be  
26 staggered by varying the first terms of these members.

27 (b) *A person who is employed to perform creditable service by*  
28 *a community college district and either a school district that*  
29 *provides instruction for kindergarten through grade 12 or a county*  
30 *office of education may only be elected to the position on the board*  
31 *that corresponds to the position in which they accrued the most*  
32 *service credit during the prior school year.*

33 (c) The members of the board shall annually elect a chairperson  
34 and vice chairperson.

35 SEC. 2. Section 22224 of the Education Code is amended to  
36 read:

37 22224. Members of the Defined Benefit Program and  
38 participants of the Cash Balance Benefit Program, who are either  
39 *elected to the board or* appointed to the board by the Governor  
40 pursuant to Section 22200, or who are appointed by the board to

1 serve on a committee or subcommittee of the board or a panel of  
2 the system, shall be granted, by his or her employer, sufficient time  
3 away from regular duties, without loss of compensation or other  
4 benefits to which the person is entitled by reason of employment,  
5 to attend meetings of the board or any of its committees or  
6 subcommittees of which the person is a member, or to serve as a  
7 member of a panel of the system, and to attend to the duties  
8 expected to be performed by the person.

9 SEC. 3. Section 22225 of the Education Code is amended to  
10 read:

11 22225. (a) The compensation of the members of the Defined  
12 Benefit Program and participants of the Cash Balance Benefit  
13 Program who are *either elected to the board or* appointed to the  
14 board *by the Governor pursuant to Section 22200, or who are*  
15 *appointed* by the board to a committee or subcommittee, or to a  
16 panel of the system, ~~shall~~ *may* not be reduced by his or her  
17 employer for any absence from service occasioned by attendance  
18 upon the business of the board, pursuant to Section 22224.

19 (b) Each employer that employs either a member of the  
20 Defined Benefit Program or a participant of the Cash Balance  
21 Benefit Program *elected or* appointed pursuant to Section 22224  
22 and that employs a person to replace the member or participant  
23 during attendance at meetings of the board, its committees or  
24 subcommittees, or when serving as a member of a panel of the  
25 system, or when carrying out other duties approved by the board,  
26 shall be reimbursed from the retirement fund for the cost incurred  
27 by employing a replacement.

28 SEC. 4. Section 22227 is added to the Education Code, to  
29 read:

30 22227. Candidates for board seats described in paragraph (5)  
31 of subdivision (a) of Section 22200, including incumbent board  
32 members running for reelection, shall file campaign statements  
33 with the Secretary of State pursuant to Section 84225.5 of the  
34 Government Code.

35 SEC. 5. Section 82023 of the Government Code is amended  
36 to read:

37 82023. "Elective office" means any state, regional, county,  
38 municipal, district or judicial office which is filled at an election.  
39 "Elective office" also includes membership on a county central  
40 committee of a qualified political party, ~~and~~ members elected to

1 the Board of Administration of the Public Employees' Retirement  
2 System, *and members elected to the Teachers' Retirement Board.*

3 SEC. 6. Section 82024 of the Government Code is amended  
4 to read:

5 82024. "Elective state office" means the office of Governor,  
6 Lieutenant Governor, Attorney General, Insurance  
7 Commissioner, Controller, Secretary of State, Treasurer,  
8 Superintendent of Public Instruction, Member of the Legislature,  
9 *a member elected to the Board of Administration of the Public*  
10 *Employees' Retirement System, a member elected to the*  
11 *Teachers' Retirement Board, and a member of the State Board of*  
12 *Equalization.*

13 SEC. 7. Section 84225.5 is added to the Government Code, to  
14 read:

15 84225.5. (a) For the purposes of this section only, "board"  
16 means the Teachers' Retirement Board of the State Teachers'  
17 Retirement System, as established under Chapter 3 (commencing  
18 with Section 22200) of Part 13 of Division 1 of Title 1 of the  
19 Education Code.

20 (b) Except as provided in this section, the provisions of this  
21 article do not apply to candidates for the board, including  
22 incumbent board members running for reelection, as those  
23 candidates are described in paragraph (5) of subdivision (a) of  
24 Section 22200 of the Education Code.

25 (c) Candidates for board seats described in paragraph (5) of  
26 subdivision (a) of Section 22200 of the Education Code, including  
27 incumbent board members running for reelection, shall file  
28 campaign statements with the Secretary of State no later than two  
29 days before the beginning of the ballot period, as determined by  
30 the board, for the period ending five days before the beginning of  
31 the ballot period, and no later than January 10, for the period  
32 ending December 31.

33 (1) The campaign statements shall contain an itemized report  
34 that is prepared on a form prescribed by the commission, with the  
35 assistance of the board, that provides the information contained in  
36 campaign statements required under Section 84211 to the extent  
37 that the information is applicable to a board election.

38 (2) The original of a campaign statement shall be filed with the  
39 Secretary of State and a copy shall be retained at the system's  
40 headquarters office for examination by the public.



(3) All campaign statements filed under this section shall be signed and verified by the filer. The verification shall state that the filer has used reasonable diligence in its preparation, and that to the best of his or her knowledge it is true and complete. Any person who violates the requirements of this section shall be subject to a civil or administrative action brought by the commission or other agency of concurrent jurisdiction pursuant to this title.

SEC. 8. Section 90001 of the Government Code is amended to read:

90001. Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of *the following*:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited. When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars (\$25,000) or more in contributions have been raised or twenty-five thousand dollars (\$25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars (\$25,000) shall be subject to an audit on a random basis of 10 percent of the number of ~~such~~ *those* candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been received or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 25 percent of the

1 Senate districts, 25 percent of the Assembly districts and 25  
2 percent of the judicial offices contested in an election year.

3 (d) Each candidate for the Legislature in a special primary or  
4 special runoff election for whom it is determined that fifteen  
5 thousand dollars (\$15,000) or more in contributions have been  
6 raised or fifteen thousand dollars (\$15,000) or more in  
7 expenditures have been made, whether by the candidate or by a  
8 committee or committees controlled by the candidate or primarily  
9 supporting his or her candidacy.

10 (e) Each controlled committee of any candidate who is being  
11 audited pursuant to subdivision (b), (c), or (d).

12 (f) Each committee, other than a committee specified in  
13 subdivision (c) of Section 82013, primarily supporting or  
14 opposing a candidate who is being audited pursuant to subdivision  
15 (b), (c), or (d) if it is determined that the committee has expended  
16 more than ten thousand dollars (\$10,000).

17 (g) Each committee, other than a committee specified in  
18 subdivision (c) of Section 82013, whose participation is primarily  
19 in support of or in opposition to a state measure or state measures  
20 if it is determined that the committee has expended more than ten  
21 thousand dollars (\$10,000) on ~~such~~ *that* measure or measures.

22 (h) Each committee, other than a committee defined in  
23 subdivision (c) of Section 82013, a controlled committee or a  
24 committee primarily supporting or opposing a state candidate or  
25 measure, if it is determined that the committee has raised or  
26 expended more than ten thousand dollars (\$10,000) supporting or  
27 opposing state candidates or state measures during any calendar  
28 year, except that if the commission determines from an audit report  
29 that a committee is in substantial compliance with the provisions  
30 of the act, the committee thereafter shall be subject to an audit on  
31 a random basis with each such committee having a 25-percent  
32 chance of being audited.

33 (i) (1) With respect to local candidates and their controlled  
34 committees, the commission shall promulgate regulations ~~which~~  
35 *that* provide a method of selection for these audits.

36 (2) With respect to candidates for the Board of Administration  
37 of the Public Employees' Retirement System, the commission  
38 shall promulgate regulations that provide a method for selection  
39 of these audits. The Public Employees' Retirement System shall



1 reimburse the commission for all reasonable expenses incurred  
2 pursuant to this section.

3 (3) *With respect to candidates for the Teachers' Retirement*  
4 *Board, the commission shall promulgate regulations that provide*  
5 *a method for selection of these audits. The State Teachers'*  
6 *Retirement System shall reimburse the commission for all*  
7 *reasonable expenses incurred pursuant to this section.*

8 (j) In accordance with subdivisions (a), (b), (c), and (h), the  
9 Fair Political Practices Commission shall select by lot the persons  
10 or districts to be audited on a random basis. For campaign audits  
11 the selection shall be made in public after the last date for filing the  
12 first report or statement following the general or special election  
13 for which the candidate ran, or following the election at which the  
14 measure was adopted or defeated. For lobbying firm and lobbyist  
15 employer audits, the selection shall be made in public in February  
16 of odd-numbered years.

17 SEC. 9. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 SEC. 10. The Legislature finds and declares that the  
27 provisions of this act further the purposes of the Political Reform  
28 Act of 1974 within the meaning of subdivision (a) of Section  
29 81012 of the Government Code.

30 SEC. 11. Section 4 of Chapter 1049 of the Statutes of 2002 is  
31 amended to read:

32 Sec. 4. ~~Sections~~ *Section 1 and 2* of this act shall become  
33 operative on January 1, 2004.

34 SEC. 12. This act is an urgency statute necessary for the  
35 immediate preservation of the public peace, health, or safety  
36 within the meaning of Article IV of the Constitution and shall go  
37 into immediate effect. The facts constituting the necessity are:

38 In order for the provisions of this act to apply to the first election  
39 of members to the Teachers' Retirement Board, which is scheduled

- 1 to take place prior to January 1, 2004, it is necessary that this act
- 2 take effect immediately.

O

